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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,939	12/27/2005	Tomohiro Ito	450100-04780	2370
7590 William S Frommer Frommer Lawrence & Haug 745 Fifth Avenue New York, NY 10151				
04/17/2008				
EXAMINER				
LE, HUYEN D				
ART UNIT		PAPER NUMBER		
2615				
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04/17/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/527,939

Applicant(s)

ITO ET AL.

Examiner

HUYEN D. LE

Art Unit

2615

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5,7,9,11,13,15 and 20-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-5,7,9,11,13,15 and 20-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 2-5, 7, 9, 11, 13, 15 and 20-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Ito et al. (U.S. patent 6,868,164).

The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention “by another,” or by an appropriate showing under 37 CFR 1.131.

Regarding claims 2, 4 and 11, Ito et al. teaches a headphone comprising a left driver unit and a right driver unit (10, 20, 110, 120), a cord (52, 52a, 52b, 170) connecting the left driver unit and the right driver unit, a cylindrical belt (30, 131, 132) in which the middle part of the cord is inserted, and the cylindrical belt having a first end and a second end (31, 131a, 132a).

Ito further shows a first end member (12, 22, 14, 140, 150, 200) fixing the cord and the cylindrical belt in which the first end member is provided at the first end of the cylindrical belt (figures 3, 4, 5, 7, 9, 12, 13), and a second end member (12, 22, 14, 140, 150, 200) fixing the

cord and the cylindrical belt in which the second end member is provided at the second end of the cylindrical belt (figures 3, 4, 5, 7, 9, 12, 13).

As shown in figures 3, 4, 5, 7, 9, 12 and 13, the length of the cylindrical belt (30, 131, 132) is shorter than the length of the cord (52, 40, 170).

In addition to claim 4, Ito shows the end member which includes separate upper and lower members as claimed (figures 4, 7, 12).

Regarding claims 3, 4 and 21, Ito shows the first and second end members (12, 22, 140, 200) that includes the protrusions as claimed (figures 4, 7, 9, 12).

Regarding claim 5, Ito shows a first tube and a second tube (the tubes 170 and 52 at the left side and the right side) with the internal diameter as claimed (figures 7, 12 and 13). As shown in the drawings, the first tube and second tube (170, 52) cover the cord in the vicinity of the first end and the second end, respectively, of the cylindrical belt (30, 131, 132), and the first tube and second tube are fixed to the cylindrical belt by the first end member and the second end member (12, 22, 140, 150, 200), respectively.

Regarding claim 7, as broadly claimed, Ito shows a ring (13, 141, 201, 230, 233) in the first end member (12, 140, 200).

Regarding claim 9, as broadly claimed, Ito shows the ring (13, 141, 201, 230, 233) which passes through a hole (figures 4, 7, 8, 9) in the first end member (12, 140, 200).

Regarding claim 13, as broadly claimed, the cylindrical belt (30, 131, 132) is provided with an ornament (30a, 30b, 30c, 51 and/or 160, 180, figures 2, 12, 13, 15) which is pliable and flexible when being bent (also see col. 10, lines 50-66).

Regarding claim 15, Ito shows a slip prevention processing that is applied to the cylindrical belt as claimed (figure 12).

Regarding claim 20, as broadly claimed, Ito shows a left ear-hook portion and a right ear-hook portion (160, 31, 32, figures 1, 3 and 16A) which are attached to the left and right driver units as claimed.

Regarding claim 22, Ito shows the first end member which includes an upper member and a lower member as claimed (figures 4, 7, 12).

Response to Arguments

3. Applicant's arguments filed 2/28/08 have been fully considered but they are not persuasive.

Responding to the arguments about claim 2, the Applicant should note that Ito does show the length of the cylindrical belt (30, 131, 132) is shorter than the length of the cord (170, 52) between the left and right drivers as claimed in claim 2 (figures 3, 4, 5, 7, 9, 12, 13).

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUYEN D. LE whose telephone number is (571) 272-7502. The examiner can normally be reached on 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, SINH TRAN can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HUYEN D. LE/
Primary Examiner, Art Unit 2615

HL
April 13, 2008